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HONOURABLE SRI JUSTICE B.PRAKASH RAO
AND
HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO:18512 of 2006

DATED: 18-09-2006

Between:

1. The Government of Andhra Pradesh, rep.by the Secretary to Government, General Administration, (OP-I) Department, Secretariat, Hyderabad and another

..... PETITIONERS

AND

1. N.P.Ch.Bhaskara Rao and 7 others

.....RESPONDENTS

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ORDER:(per Hon'ble Sri Justice Ramesh Ranganathan)

Aggrieved by the order of the Tribunal in O.A.No.230 of 2005 dated 22-07-2005, the present writ petition is filed.

The Government had issued G.O.Ms.No.350 General Administration (O.P.I) Department dated 28-10-2004, pursuant to the interim orders of the Tribunal dated 30-12-2003 in O.A.No.7279

of 2003 and had decided to restore the regularization dates ordered in G.O.Ms.No.378, General Administration (OP.I) Department, dated 28-07-1982 and to incorporate the dates of regularization of Assistant Section Officers. The General Administration Department, as ordered in G.O.Ms.No.378 dated 28-07-1982, took further action, pursuant to the integrated final seniority list issued in G.O.Ms.No.186 dated 20-06-2003, upon intimation to the Government. Contending that the said order in G.O.Ms.No.350 dated 28-10-2004 was passed without putting them on notice certain Section Officers of the General Administration Department approached the Tribunal. The Tribunal, in its order dated 22-07-2005, noted that the respondents/applicants were not parties to the earlier O.A.No.7279 of 2003, that only interim orders had been passed in the said O.A. and no final decision had been taken, and that the Government had issued G.O.Ms.No.350 dated 28-10-2004 based on the interim order passed in O.A.No.7279 of 2003 and the representations made by certain employees in the General Administration Department. The Tribunal held that, before taking a decision to grant seniority by the impugned G.O., no notice had been issued to the affected parties and that the decision taken in G.O.Ms.No.350 dated 28-10-2004, without hearing the affected parties, was in violation of principles of natural justice. The Tribunal further held that issuing a notice through Memo dated 28-03-2005, after the decision had been taken, did not comply with the

requirements of the principles of natural justice as a decision had already been taken earlier through G.O.Ms.No.350, dated 28-10-2004. The Tribunal, while setting aside the impugned order, observed that its order did not preclude the first respondent from issuing notices to the affected parties before taking a final decision in the matter.

Learned Government Pleader for Services would submit that, since a notice had been issued vide memo dated 28-03-2005, giving the respondent/applicants an opportunity of being heard, even if it be after G.O.Ms.No.350 dated 28-10-2004 was issued, it was sufficient compliance with the principles of natural justice. We are afraid we cannot agree. As rightly pointed out by the Tribunal, notice to affected parties and the opportunity of being heard which they were entitled to, must, normally, be given before a decision is taken and a post-decisional hearing, except under exceptional circumstances, would not suffice. We see no reason to interfere with the order of the Tribunal, more so, since the petitioners herein have now been given the liberty to put the respondent/applicants on notice and thereafter take a decision in the matter.

The Writ Petition is accordingly dismissed. However, in the circumstances, without costs.

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B.PRAKASH RAO, J

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RAMESH RANGANATHAN, J

18th September, 2006

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